

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
OFFICE OF FINANCIAL AND INSURANCE REGULATION
Before the Commissioner of Financial and Insurance Regulation

In the matter of

XXXXXX

Petitioner

v

File No. 120504-001-SF

Blue Cross Blue Shield of Michigan
Respondent

Issued and entered
this 17TH day of October 2011
by R. Kevin Clinton
Commissioner

ORDER

I. PROCEDURAL BACKGROUND

On April 8, 2011, XXXXX, authorized representative of her daughter XXXXX (Petitioner), filed a request for external review with the Commissioner of Financial and Insurance Regulation. The request for review was filed pursuant to Public Act No. 495 of 2006, MCL 550.1951 *et seq.* which authorizes the Commissioner to conduct external reviews for state and local government employees who receive health care benefits through a self-funded plan. Under Act 495, the reviews are conducted in the same manner as reviews conducted under the Patient's Right to Independent Review Act, MCL 550.1901 *et seq.*

The Petitioner's health care coverage is provided through her father's employer, the State of Michigan, in a self-funded plan administered by Respondent Blue Cross Blue Shield of Michigan (BCBSM). The plan's benefits are described in the *State Health Plan PPO Benefit Guide*.

The Commissioner reviewed the request and accepted it on April 15, 2011. The issue in this external review can be decided by a contractual analysis. The Commissioner reviews contractual issues pursuant to MCL 550.1911(7). This matter does not require a medical opinion from an independent review organization.

II. FACTUAL BACKGROUND

On December 21 and 30, 2010, the Petitioner had several laboratory tests processed by the XXXXX Hospital pathology department. BCBSM provided coverage for some tests but denied coverage for others, ruling that they were not included in the *Benefit Guide*'s list of covered preventive services.

The Petitioner appealed BCBSM's denial. BCBSM held a managerial-level conference on February 28, 2011, and issued its final adverse determination March 14, 2011, affirming its original decision.

III. ISSUE

Is BCBSM required to cover the disputed lab services the Petitioner received?

IV. ANALYSIS

Petitioner's Argument

In her request for review, the Petitioner's mother wrote:

Upon calling [BCBSM] prior to my children's physical examinations (to clarify the benefit) I was told each child had an allowance of up to \$1,500 (with an in-network provider). I clarified that the allowance included ANY bloodwork, EKG, X rays, labwork or ANY testing that may result from the physical. The employee **confirmed** that, **with no exclusions given**, even upon further questioning by me, that any testing ordered was covered, up to the allowance of \$1,500.

I then received a bill for some of the testing, and upon calling BCBSM was told that the employee **should** have told me that only SOME of blood testing is covered.

I feel BCBSM has a responsibility to train their employees to give correct and thorough information, and that the company should be held accountable and responsible for the information given by their employees. As a result of the incorrect information I was given, we have received a bill for \$161.

I respectfully request that the balance from this physical for XXXXX be covered - \$161.

BCBSM's Argument

In its final adverse determination, BCBSM wrote:

You are enrolled for coverage under the *State of Michigan Employees State Health Plan PPO Your Benefit Guide*. Page 20 of *Your Benefit Guide* is as follows:

Your coverage pays for the preventive services listed below up to a yearly dollar maximum of \$1,500 when they are received from in-network PPO providers:

- Health maintenance exam – This includes a comprehensive history and physical exam. It also includes the following laboratory and radiology procedures when performed as a routine screening:
 - Chemical Profile
 - Complete blood count
 - Urinalysis
 - Chest X-ray
 - EKG

Because the laboratory services performed (assay of triglycerides, assay thyroid stimulating hormone and assay, blood/serum cholesterol) for XXXXX . . . are not included under the preventive benefit, the denial must be maintained and you are liable for the charges . . .

Commissioner's Review

The *Benefit Guide* lists the preventive lab tests which are covered benefits. The five tests that the Petitioner disputed are not included under the preventive benefit and are therefore not covered.

The Petitioner's mother states she was led by BCBSM's customer service representatives to believe that all the tests would be covered. BCBSM indicated that its records show that no misleading information was provided to the Petitioner. Under the PRIRA, the Commissioner's role is limited to determining whether a health plan has properly administered health care benefits under the terms of the applicable insurance contract or state law. Resolution of the factual dispute described by the Petitioner cannot be a part of a PRIRA decision because the PRIRA process lacks the hearing procedures necessary to make findings of fact based on evidence such as oral statements.

The Commissioner finds that BCBSM correctly applied the provisions of Petitioner's benefit guide.

V. ORDER

Blue Cross Blue Shield of Michigan's final adverse determination of March 14, 2011, is upheld. BCBSM is not required to cover the Petitioner's disputed lab tests.

This is a final decision of an administrative agency. Under MCL 550.1915, any person aggrieved by this Order may seek judicial review no later than 60 days from the date of this Order in the circuit court for the county where the covered person resides or in the circuit court of Ingham County. A copy of the petition for judicial review should be sent to the Commissioner of Financial and Insurance Regulation, Health Plans Division, Post Office Box 30220, Lansing, MI 48909-7720.